



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 31, 2019

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Anne L. Idsal
Acting Assistant Administrator

Anne L. Idsal 7/31/19

TO: Andrew R. Wheeler
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations. This recusal statement supersedes my May 15, 2019 and July 24, 2018 recusal statements for my prior positions.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics about my family's closely-held corporation, **Idsal Family Properties Management**. I will continue to have a financial interest in this entity but receive only passive income from it. I will not participate personally and substantially in any particular matter that will have a direct and predictable financial effect on the financial interest of Idsal Family Property Management, unless I first obtain a written waiver from the Office of General Counsel pursuant to Section 208(b)(1).

Unless I am authorized to participate by the Office of General Counsel, I am disqualified from participating in any particular matter involving specific parties in which the following

entity is a party or represents a party:

NAME OF ENTITY	DATE WHEN RECUSAL ENDS
Valley Crossing Pipeline	Continues for as long as I have an interest in a pipeline easement with this entity.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to any former employer during the preceding two years, as well as any organization in which I held a fiduciary duty. For purposes of this restriction, the entities that fall within the prohibition are the Texas General Land Office (TX GLO) and the Leukemia & Lymphoma Society.

The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that these additional restrictions contained in the Executive Order regarding the TX GLO as my former employer do not apply to me. The definition of “former employer” in the Executive Order excludes state government.¹ Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers for the TX GLO.

I understand that I am prohibited from participating in any particular matter involving specific parties in which the **Leukemia & Lymphoma Society** is a party or represents a party. My recusal lasts for two years from the date that I joined federal service so will end after December 17, 2019. I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties, representing a diversity of viewpoints. If my former employer is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

ATTORNEY BAR OBLIGATIONS

Pursuant to my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Although I had previously recused myself as a prudential matter from participation

¹ See Exec. Order 13770, Section 2(j), which provides that “‘former employer’ does not include ... State or local government.”

in the **Texas Regional Haze 5 Year Program Report** and the **Texas SO2 Transport SIP**, I received confirmation from the General Counsel of the Texas Commission on Environmental Quality (TCEQ) that I did not participate substantially in these particular matters while at TCEQ. Therefore, they and OGC/Ethics have no objections to my participation in any future decisions regarding these two particular matters.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in particular matters from which I am recused, I will instruct Ann Campbell, Chief of Staff, to assist in screening EPA matters directed to my attention. All inquiries and comments involving my recusal should be directed to Ms. Campbell without my knowledge or involvement.

If Ms. Campbell determines that I am recused, then she will refer it for action or assignment to another, without my knowledge or involvement. In the event that she is unsure whether an issue is a particular matter from which I am recused, then she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates and Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Elizabeth Shaw, Principal Deputy Assistant Administrator
Clint Woods, Deputy Assistant Administrator
David Harlow, Senior Counsel
Ann Campbell, Chief of Staff
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 30 2019

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

NOW THE
OFFICE OF LAND AND
EMERGENCY MANAGEMENT

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Peter Wright
Assistant Administrator

A handwritten signature in dark ink, appearing to read "P. Wright", is written over the name "Peter Wright" in the "FROM:" field.

TO: Andrew R. Wheeler
Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations. This recusal statement supersedes my July 24, 2018 recusal statement for my prior position as Senior Advisor.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any significant financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to any former employer during the preceding two years, as well as any organization in which I held a fiduciary duty. For purposes of this restriction, the entities that fall within the prohibition are **Dow Inc.; DuPont de Nemours, Inc. (DuPont); Corteva¹; the National Association of Wabash Men; and the Lambda Chi Alpha Home Association of Wabash College.**

I understand that I am prohibited from participating in any particular matter involving specific parties in which any of the entities listed below is a party or represents a party. My recusal lasts for two years from the date that I joined federal service. I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective.²

NAME OF ENTITY	DATE WHEN RECUSAL ENDS
Dow Inc.	July 8, 2020
DuPont	July 8, 2020
Corteva, Inc. ³	July 8, 2020
National Association of Wabash Men, Board of Directors	July 8, 2020
Lambda Chi Alpha Home Association of Wabash College	July 8, 2020

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first

¹ In 2019, DowDuPont separated into three independent companies: Dow, DuPont and Corteva. Although the creation of Corteva occurred after I left the company, I am nevertheless including it on my recusal list to avoid even the appearance of an ethics issue while I am the Assistant Administrator for OLEM.

² I understand that such meetings "do not have to be open to every corner, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client." See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

³ Although OGC/Ethics does not anticipate that this company is likely to present any issues in OLEM, I am including it out of an abundance of caution.

obtain informed consent and notify OGC/Ethics.

SUPERFUND SITES

To avoid any concerns about my ethical obligations, I am affirming that I will not participate in any matters related to any Superfund sites at which my former employers are a potentially responsible party. Consistent with my attorney bar rules, I will not participate in any matter that I previously worked on personally and substantially. For any of the sites involving my former employers that I did not previously work on personally and substantially, I will not participate in matters for those sites until after July 8, 2020, consistent with my obligations under the federal ethics regulations and Executive Order 13770.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in particular matters addressed in this recusal statement, I will instruct Barry Breen and/or Steven Cook, Deputy Assistant Administrators, to assist in screening EPA matters directed to my attention that involve those entities or sites. All inquiries and comments involving the entities or Superfund sites on my recusal list should be directed to Mr. Breen or Mr. Cook without my knowledge or involvement until after my recusal period ends.

If Mr. Breen or Mr. Cook determine that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to the Designated Agency Ethics Official and the Alternate Designated Agency Ethics Official.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests such as the sale of the above-mentioned stock, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Barry Breen, Deputy Assistant Administrator
Steven Cook, Deputy Assistant Administrator
David Cozad, Acting Designated Agency Ethics Official
Justina Fugh, Alternate Designated Agency Ethics Official




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUL - 3 2019

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Impartiality Determination to Participate in Certain Matters Involving the State of Wisconsin

FROM: Justina Fugh 
Alternate Designated Agency Ethics Official

TO: Alexander C. Girard
Senior Congressional and Intergovernmental Relations Liaison
Region 5

As Senior Congressional and Intergovernmental Relations Liaison for Region 5 of the United States Environmental Protection Agency (EPA), you seek permission to participate in specific party matters involving the State of Wisconsin. Within the last year, prior to being selected for this position, you served as a Legislative and Policy Advisor for the Wisconsin Department of Agriculture, Trade and Consumer Protection.

As an Administratively Determined (AD) appointment, you are not required to sign President Trump's Ethics Pledge because this type of appointment falls outside the definition of "appointee" set forth at Executive Order 13770 at Section 2(b).¹ However, what remains is an impartiality concern under the federal ethics rules set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Upon assuming the position of Senior Congressional and Intergovernmental Liaison, you will have a "covered relationship" with the State of Wisconsin pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). For one year from the date you resigned from the Wisconsin Department of Agriculture, Trade and Consumer Protection, absent an impartiality determination from me, you cannot participate in any specific party matter in which the State of Wisconsin is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. See 5 C.F.R. § 2635.502(a).

¹ See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/17) and "Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/10); and "Signing the Ethics Pledge," DO-090-005 (2/10/09).

Federal ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee's participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d). The factors that the Agency takes into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

In reviewing these factors, I have concluded that the interest of the United States Government in your participation outweighs any concerns about your impartiality, and I am authorizing you to participate as Region 5's Senior Congressional and Intergovernmental Relations Liaison in particular matters that involve the State of Wisconsin with the following limitation: you must recuse yourself from participation in specific party matters in which you participated personally and substantially while employed with the Wisconsin Department of Agriculture, Trade and Consumer Protection. In making this determination, I have taken the following factors into consideration:

Nature of the relationship involved – Since July 2017, you have served as a Legislative and Policy Advisor for the Wisconsin Department of Agriculture, Trade and Consumer Protection. Sensitivities regarding your impartiality will necessarily revolve around the issues in which you participated personally and substantially for the Wisconsin Department of Agriculture, Trade and Consumer Protection. States share responsibility with EPA in protecting human health and the environment. With respect to many of our statutes, EPA has directly delegated states with regulatory and enforcement authority. In fact, EPA, through its regions, works closely and directly with state governmental entities on a continuing and frequent basis.

Effect of the matter upon your financial interest – I understand that you have a defined benefit plan with the State of Wisconsin. As such, you have a financial conflict of interest pursuant to 18 U.S.C. § 208. Under this criminal statute, you cannot participate personally and substantially in any particular matter that will affect the State's ability or willingness to honor its contractual obligations with respect to your state retirement interests. But pursuant to the regulatory exemptions, this personal financial interest is not a disqualifying one that raises concerns about participation in particular matters affecting the holdings of the plan or in particular matters of general applicability affecting the sponsor of the plan under the federal conflict of interest

statute. *See* 5 C.F.R. §§ 2640.201(c)(1)(ii), 2640(c)(1)(iii) and 2640.201(c)(2). In the Agency's experience, it is unlikely that you as Region 5's Senior Congressional and Intergovernmental Relations Liaison will be in any position to affect the State's ability or willingness to pay these benefits to its retirees.

Nature and importance of the employee's role – As the Senior Congressional and Intergovernmental Relations Liaison for Region 5, you serve as a point of contact with Congress, states and local governments, and serve as a liaison with these constituencies on the Agency's major programs as well as on intergovernmental issues. In this role, you are expected to communicate freely with states in Region 5, including Wisconsin.

Sensitivity of the matter – We anticipate that there will be specific party matters in which you did not participate personally and substantially for the Wisconsin Department of Agriculture, Trade and Consumer Protection that will rise to your level of attention, merit your participation and raise nationally significant issues.

Difficulty of reassigning the matter to another employee – Your participation as Senior Congressional and Intergovernmental Relations Liaison in such matters will be of importance to the Regional Administrator, and therefore in the Agency's interests. In these situations, it may not be appropriate to reassign the matter to another employee.

Under this limited authorization, you are authorized to participate in new or future specific party matters that involve the State of Wisconsin, but not on the very same specific party matters on which you worked on personally and substantially while employed by the Wisconsin Department of Agriculture, Trade and Consumer Protection. With respect to those particular matters involving Wisconsin as a specific party and in which you previously participated personally and substantially, you have agreed not to participate at all for the duration of your EPA tenure. If the Agency determines that we have a compelling reason for your participation as an EPA official on any of those same specific party matters that you participated in personally and substantially, then you, your Regional Administrator, or Regional Counsel may ask OGC/Ethics to reconsider the factors on a case-by-case basis. Unless and until you receive written authorization, you must continue to recuse yourself from those matters in which you previously participated.

While I have issued you this determination to interact with the State of Wisconsin with the limitation described above, please note that you may wish to make adjustments to your duties to not participate in a particular matter that involves Wisconsin. Nothing in this impartiality determination precludes you from making additional adjustments to your duties, such as voluntarily recusing from other matters, although you are advised to confer with your Regional Counsel should such a circumstance arise.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Ann Coyle at coyle.ann@epa.gov or (312) 886-

2248, or Shannon Griffo at griffo.shannon@epa.gov or (202) 564-7061.

cc: Cathy Stepp, Regional Administrator, Region 5
Cheryl Newton, Acting Deputy Regional Administrator, Region 5
Leverett Nelson, Regional Counsel, Region 5
Ann Coyle, Regional Ethics Counsel, Region 5